STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ERIC HOOPER, a/k/a MICHAEL HEATH,

Defendant-Appellant.

UNPUBLISHED
September 21, 1999

No. 209515
Wayne Circuit Court
LC No. 96-008836

Before: Gribbs, P.J., and Smolenski and Gage, JJ.

PER CURIAM.

After a bench trial, defendant was convicted of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v). The trial court sentenced defendant as an habitual offender, third offense, MCL 769.11; MSA 28.1083, to three years' probation. Defendant appeals as of right. We affirm.

Defendant first contends that the trial court erred in denying his motion to suppress an inculpatory statement without specifically ruling on whether the police coerced the statement. Contrary to defendant's assertion, however, the trial court explicitly rejected defendant's suppression hearing testimony that the police coerced his statement:

> [T]he court understands police officers do make threats and they do give false testimony sometimes, but I don't believe that Officer Torey threatened the defendant with claiming that he was going to put the drugs on his person as opposed to somewhere else.

When faced with the directly conflicting testimony of defendant and the police officer regarding the circumstances surrounding defendant's statement, the trial court chose to accept the police officer's version of events. Because we must defer to the trial court's credibility determinations, *People v Howard*, 226 Mich App 528, 543; 575 NW2d 16 (1997), we find no error in the court's denial of defendant's motion to suppress.

Defendant next argues that he was incarcerated for approximately one year prior to trial in violation of the 180-day rule and his right to a speedy trial. Initially, we note that defendant's brief on appeal fails to provide any factual basis whatsoever from which we may properly examine his claims, and has thus waived his right to review of these issues. *People v Leonard*, 224 Mich App 569, 588; 569 NW2d 663 (1997). Nonetheless, we will briefly address defendant's assertions.

The 180-day rule states that an inmate of the Department of Corrections must "be brought to trial within 180 days" after the prosecutor is given notice of untried charges against him. MCL 780.131(1); MSA 28.969(1)(1); *People v Crawford*, 232 Mich App 608, 612; 591 NW2d 669 (1998). In the this case, the lower court record is unclear regarding exactly when the prosecutor received notice of defendant's incarceration within the Department of Corrections. A June 25, 1997 Wayne County Jail Conditional Release form represents the earliest record indication that defendant was to be picked up by the Department of Corrections for a parole violation. Even assuming that June 25, 1997 constitutes the date on which the prosecutor received notice of defendant's presence within the Department of Corrections, defendant was brought to trial on November 5, 1997, no more than 133 days later. Accordingly, we find no 180-day rule violation.

To determine whether a defendant has been denied his right to a speedy trial, this Court considers (1) the length of the delay, (2) the reason for the delay, (3) the defendant's assertion of the right to a speedy trial, and (4) any prejudice to the defendant. *People v Gilmore*, 222 Mich App 442, 459; 564 NW2d 158 (1997). Defendant apparently remained incarcerated from the time he was arrested on October 31, 1996, until his November 5, 1997 waiver trial. On the first scheduled trial date, May 7, 1997, the trial court adjourned the trial because defendant was in federal custody and unavailable. On the second scheduled trial date, August 14, 1997, the court granted a second adjournment of trial until November 5, 1997 because defendant had been transferred to an unknown prison facility prior to execution of the trial court's writ of habeas corpus. These two trial adjournments were not caused by the prosecutor, but derived from the trial court's difficulty locating defendant. Importantly, defendant never asserted his right to a speedy trial by moving to dismiss based on undue delay, and has failed to show or to even allege that the delay prejudiced him. Defendant was serving another sentence with the Department of Corrections during a portion of the pretrial delay. Moreover, defendant was ultimately sentenced to three years' probation, and therefore was not prejudiced by losing an opportunity to have his sentences run concurrently. Given these considerations, we conclude that no speedy trial violation existed.

Affirmed.

/s/ Roman S. Gribbs
/s/ Michael R. Smolenski
/s/ Hilda R. Gage